

Rule 510. Counterclaim in Excess of Court's Jurisdiction

(a) The court administrator shall strike plaintiff's action from the calendar if the defendant not less than 7 days of the date set for trial of plaintiff's claim, files with the court administrator an affidavit stating that:

(1) the defendant has a counterclaim against plaintiff arising out of the same transaction or occurrence as plaintiff's claim, the amount of which is beyond monetary jurisdiction of the conciliation court, and

(2) the defendant has commenced or will commence within 28 days an action against plaintiff in a court of competent jurisdiction based on such claim.

(b) The plaintiff's action shall be subject to reinstatement on the trial calendar at any time after 28 days and up to three years, upon the filing by plaintiff of an affidavit showing that the plaintiff has not been served with a summons by defendant. If the action is reinstated, the court administrator shall set the case for trial and transmit notice of the trial date to the parties.

(c) Absolute or conditional costs, not to exceed \$50, may be imposed against the defendant if the defendant fails to commence an action as provided in paragraph (a)(2) of this rule, and the court determines that the defendant caused the plaintiff's action to be stricken from the calendar in bad faith or solely to delay the proceedings or to harass.

(Amended effective July 1, 2015; amended effective January 1, 2020.)